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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on: 04th March, 2016

+ **CRL.M.C. No.953/2016**

M/S GANPATI BUILDTECH PVT. LTD. & ORS

..... Petitioners

Represented by: Mr.Sanjay Kr Sharma,
Adv

versus

M/S SANJEEV ENTERPRISES

..... Respondent

Represented by: NEMO.

**CORAM:
HON'BLE MR. JUSTICE SURESH KAIT**

SURESH KAIT, J. (Oral)

Crl.M.A. No.4021/2016 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

CRL.M.C. 953/2016

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioners seeks direction for setting aside the order dated 20.02.2016 passed by learned Additional Sessions Judge in Criminal Appeal No.49/2015 titled "*M/s.Ganpati Buildtech Pvt Ltd & Others v. Sanjeev Enterprises*".

2. It is not in dispute that the aforesaid matter was settled and the petitioner agreed to pay a compensation amount of Rs.19,50,000/- in the following manner:-

"1. On 24/11/2015 Rs.4,00,000/-
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2. On 09/12/2015 Rs.5,50,000/-
3. On 21/01/2016 Rs.10,00,000/-”

3. The petitioners have already paid two installments mentioned above, and had to pay the balance amount of Rs.10,00,000/- on 21.01.2016 on date fixed before the Court. On the said date, petitioner moved an application for exemption and extension of time for making the payment and issued three post dated cheques; out of which two were dated 29.01.2016, 11.02.2016 for Rs.2,50,000/- each and last one dated 27.02.2016 for an amount of Rs.5,00,000/-. The said offer was rejected by the aforesaid Court vide order dated 21.01.2016; the application for exemption was also rejected; and consequently, issued NBWs against petitioners.

4. Learned counsel appearing on behalf of petitioners submits that he has prepared two demand drafts in favour of respondent/ complainant to the tune of Rs.2,50,000/- each and cheque to the tune of Rs.5,00,000/- dated 27.02.2016. Originals shown today in the Court by learned counsel and placed on record photocopies thereof.

5. Keeping in view the averments made in the instant petition and submissions of learned counsel for petitioners, I hereby set aside the impugned order dated 20.02.2016, subject to cost of Rs.50,000/- to be paid in favour of respondent in addition to amount mentioned above.

6. Admittedly, instant matter essentially revolves upon a matter under Section 138 of the Negotiable Instruments Act, 1881 and petitioners have been convicted therein. Both the parties settled the matter during pendency of appeal before learned Appellate Court.

7 Hence, learned Appellate Court is expected to consider and pass order in accordance with the guidelines propounded by the Supreme Court in ***Damodar S.Prabhu v. Sayed Babalal H : AIR 2010 SC 1907*** and cost imposed under such guidelines should be deposited with Legal Services Authority operating at the level of the Court before which the compounding takes place.

8. Accordingly, learned Appellate Court is directed to accept the said amount, as indicated above.

9. In above terms, instant petition is allowed and disposed of.

10. Copy of order be given *dasti* under the signature of Court Master.

Crl.M.A. No.4020/2016 (for stay)

Dismissed as infructuous.

**SURESH KAIT
(JUDGE)**

MARCH 04, 2016

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